

ORIGINAL

Summons in a Civil Action (Rev 11/97)

United States District Court

SOUTHERN DISTRICT OF CALIFORNIA

BARTELL HOTELS, a California Limited Partnership,
dba HALF MOON ANCHORAGE

VS

SUMMONS IN A CIVIL ACTION

Case No. **'07CV 2097 L**

BLM

M/Y CLAIRE IRENE, a 1968 Owens Motor Yacht of
Approximately 40-Feet in Length And 11-Feet in Beam,
bearing California D.M.V. Registration No. F 8646 ED, AND
ALL OF HER ENGINES, TACKLE, ACCESSORIES, EQUIP-
MENT, FURNISHINGS AND APPURTENANCES, *in rem*

TO: (Name and Address of Defendant)

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and
serve upon PLAINTIFF'S ATTORNEY

Weiss & Jones
Philip E. Weiss, Esq.
1551 Shelter Island Drive
San Diego, CA 92106

An answer to the complaint which is herewith served upon you, within 20 days after
service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment
by default will be taken against you for the relief demanded in the complaint.

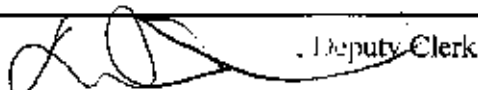
W. Samuel Hamrick, Jr.

CLERK

NOV - 1 2007

DATE

By

 Deputy Clerk

Summons in a Civil Action

Page 1 of 2

ORIGINAL

RETURN OF SERVICE			
Service of the Summons and Complaint was made by me		DATE <u>2/6/2008</u>	
NAME OF SERVER <u>Dexter Vilain</u>		TITLE <u>Deputy U.S. Marshal</u>	
Check one box below to indicate appropriate method of service			
<input checked="" type="checkbox"/> Served personally upon the defendant. Place where served: <u>Defendant Vessel</u> <u>at Halfmoon Anchorage</u> <u>2303 Shelter Island Dr., San Diego, CA 92106</u> Left copies thereof at the defendant's dwelling, house or usual place of abode with a person of suitable age and discretion then residing therein: Name of person with whom the summons and complaint were left: _____ Return unexecuted: _____			
<input checked="" type="checkbox"/> Other (specify): <u>* Declaration of Service also attached indicating service of summons, First Amended Complaint and other vessel arrest documents to person Plaintiff believes has ownership interest in Defendant Vessel.</u>			
STATEMENT OF SERVICE FEES			
TRAVEL		SERVICES <u>50.37</u>	TOTAL \$0.00
DECLARATION OF SERVER			
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service is true and correct.			
Executed on:		<u>please see attached U.S. Marshal's</u> <u>Notice of Service Form 285 for</u>	
Date		Signature of Server <u>Deputy Vilain's</u> <u>signature</u>	
		Address of Server <u>U.S. Marshal Service,</u>	
<u>Civil Seizure Section, 940 Front St., Rm. B-150, Lower Level, San Diego, CA 92101</u>			
NOTICE OF RIGHT TO CONSENT TO TRIAL BY A UNITED STATES MAGISTRATE			
IN ACCORDANCE WITH THE PROVISION OF 28 USC 636(C) YOU ARE HEREBY NOTIFIED THAT A U.S. MAGISTRATE OF THIS DISTRICT MAY, UPON CONSENT OF ALL PARTIES, CONDUCT ANY OR ALL PROCEEDINGS, INCLUDING A JURY OR NON-JURY TRIAL, AND ORDER THE ENTRY OF A FINAL JUDGMENT. COUNSEL FOR THE PLAINTIFF HAS RECEIVED A CONSENT FORM.			
YOU SHOULD BE AWARE THAT YOUR DECISION TO CONSENT OR NOT CONSENT IS ENTIRELY VOLUNTARY AND SHOULD BE COMMUNICATED SOLELY TO THE CLERK OF COURT. ONLY IF ALL PARTIES CONSENT WILL THE JUDGE OR MAGISTRATE TO WHOM THE CASE HAS BEEN ASSIGNED BE INFORMED OF YOUR DECISION.			
JUDGEMENTS OF THE U.S. MAGISTRATES ARE APPEALABLE TO THE U.S. COURT OF APPEALS IN ACCORDANCE WITH THIS STATUTE AND THE FEDERAL RULES OF APPELLATE PROCEDURE.			

1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure

Case 3:07-cv-02097-L-BLM Document 19 Filed 02/07/2008 Page 1 of 3

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN

See Instructions for "Service of Process by the U.S. Marshal" on the reverse of this form.

PLAINTIFF BARTELL HOTELS, A CALIFORNIA LIMITED Partnership, dba Half Moon Anchorage	COURT CASE NUMBER 07CV2097 LCBLM
DEFENDANT MICHAEL IRENE, a 1968 Owens Motor Yacht, approx. 40 feet in length and 11 feet in beam, California DMV Registration No. CF 8646 ED, and all her engines, etc.	TYPE OF PROCESS IN REM VESSEL SEIZURE
NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN MICHAEL IRENE, a 1968 Owens Motor Yacht, approx. 40 feet in length and 11 feet in beam, California DMV Registration No. CF 8646 ED, and all her engines, etc.	
ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) Half Moon Anchorage, 2131 Shelter Island Dr., San Diego, CA 92106	

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:

WEISS & Jones
Attn.: Philip Weiss, Esq.
1551 Shelter Island Dr.
San Diego, CA 92106

Number of process to be served with this Form - 285	
Number of parties to be served in this case	
Check for service on U.S.A.	

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):

PLEASE SEIZE, TAKE INTO CUSTODY AND POST COMPLAINT/ARREST DOCUMENTS on the Defendant vessel MICHAEL IRENE, a 1968 Owens Motor Yacht of approx. 40 feet in length and 11 feet in beam, California DMV Registration No. CF 8646 ED where she lies at Half Moon Anchorage, as instructed by Court order as soon as possible. Please contact BRAD OLIVER in advance to advise of date and time of seizure. BRAD OLIVER, marina manager at (619) 224-3411 ext. 301.

Signature of Agency or Other Originator requesting service on behalf of:

☒ PLAINTIFF
☐ DEFENDANT

TELEPHONE NUMBER

DATE

1619-225-8884 10/30/07

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process 1	District of Origin 08	District to serve 08	Signature of Authorized USMS Deputy or Clerk A Scott	Date 11/07/07
---	---------------------------	---------------------------------	--------------------------------	--	-------------------------

I hereby certify and return that I ☐ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks". the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown in the address inserted below.☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above)

Address (complete only if different than shown above)

☐ A person of suitable age and discretion then residing in the defendant's usual place of abode.

Date of Service

Time

2-6-08 4:20 pm

Signature of U.S. Marshal or Deputy

John V.L.

Service Fee \$45	Total Mileage Charges (including endeavors) \$5.37	Forwarding Fee	Total Charges \$50.37	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund
----------------------------	--	----------------	---------------------------------	------------------	--------------------------------	------------------

REMARKS: 1 deputy @ 45 hr.

1 WEISS & JONES
Philip E. Weiss, Esq. (No. 152523)
2 1551 Shelter Island Drive
San Diego, California 92106
3 Telephone: (619) 225-8884
Facsimile: (619) 225-8801
4

5 Attorneys for Plaintiff
Bartell Hotels, a California Limited Partnership,
6 dba Half Moon Anchorage
Attorney for Plaintiff
7

8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 BARTELL HOTELS, A California Limited
Partnership, dba HALF MOON ANCHORAGE,

12 Plaintiff,
13

14 v.

15 M/Y CLAIRE IRENE, a 1968 Owens Motor
Yacht of Approximately 40-Foot In Length And
11-Foot In Beam, Bearing California D.M.V.
16 Registration No. CF 8646 ED, AND ALL OF
HER ENGINES, TACKLE, ACCESSORIES,
17 EQUIPMENT, FURNISHINGS AND
APPURTENANCES, *in rem*,

18 Defendant.
19

Case No. 07 CV 2097 L (BLM)

IN ADMIRALTY

DECLARATION OF SERVICE

F.R.C.P. Supplemental Admiralty
Rules C and E.

46 U.S.C. Sections 30101-31343

20
21 **DECLARATION OF SERVICE**

22 **STATE OF CALIFORNIA, COUNTY OF SAN DIEGO**

23 I am employed in San Diego County, State of California. I am over the age of eighteen (18)
24 and not a party to this action; my business address is 1551 Shelter Island Drive, San Diego,
25 California 92106. On January 11, 2008, I served the following document(s) described as:

- 26 - **First Amended Verified Complaint For Vessel Arrest, Interlocutory Sale And for**
27 **Money Damages for Trespass By Vessel, Breach Of Contract For Necessaries, and**
28 **Quantum Meruit**

- 1 - **Declaration of Michael J. Ardelt Concerning Existence of Month-To-Month**
- 2 **Wharfage Contract For Defendant Vessel**
- 3 - **Second Ex Parte Application for Order Authorizing Issuance of a Warrant for**
- 4 **Arrest of Defendant Vessel**
- 5 - **Declaration of Philip E. Weiss In Support of Vessel Arrest and Regarding**
- 6 **Submissions of Second Application For Order Authorizing Issuance of Warrant**
- 7 **For Vessel Arrest And Second Application For Order Appointing Substitute**
- 8 **Custodian**
- 9 - **Second [Proposed] Order Authorizing Arrest of Defendant Vessel Pursuant to**
- 10 **Supplemental Admiralty Rule C**
- 11 - **Second Application for Appointment of Substitute Custodian and for**
- 12 **Authorization for Movement of Defendant Vessel**
- 13 - **Second Declaration of Richard Bartell In Support of Ex Parte Application for**
- 14 **Order Appointing Substitute Custodian**
- 15 - **Second [Proposed] Order Appointing Substitute Custodian and Authorizing**
- 16 **Movement of Vessel**
- 17 - **Second Warrant for Action In Rem**

18 on the interested parties in Case No. 07 CV 2097 L (BLM) by placing ☐ the original

19 ☒ a true copy thereof enclosed in a sealed envelope addressed as follows:

20 Mr. Kurt Hach

21 19918 Chase Street

22 Canoga Park, CA 91306

23 ☐ **(BY PERSONAL SERVICE):** Personal service accomplished by ☐ attorney service or
 24 ☐ _____, employed by Weiss & Jones.

25 ☐ **(BY FACSIMILE AS INDICATED ABOVE):** I caused the foregoing document(s) to be
 26 sent via facsimile transmission to the above addressee(s) at the facsimile numbers indicated above.

27 ☒ **(BY U.S. MAIL AS INDICATED ABOVE):** As follows: I am "readily familiar" with the
 28 firm's practice of collection and processing correspondence for mailing. Under that practice it would

1 be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at San
2 Diego, California in the ordinary course of business. I am aware that on motion of the party served,
3 service is presumed invalid if postal cancellation date or postage meter date is more than one day
4 after deposit for mailing in affidavit.

5 ☐ (STATE): I declare under penalty of perjury under the laws of the State of California that
6 the foregoing is true and correct.

7 ☒ (FEDERAL): I declare that I am employed in the office of a member of the bar of this court
8 at whose direction the service was made.

9 Dated: January 11, 2007

Tamara Geehan

Tamara Geehan

11 c:\unrest-sdcal-clientsub\proofservice